

AMENDED IN ASSEMBLY APRIL 12, 2004
AMENDED IN ASSEMBLY MARCH 31, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2692

Introduced by Assembly Member Dutton

February 20, 2004

An act to amend and renumber Section 1235 of, and to add Section 1243 to, the Government Code, relating to elected public officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2692, as amended, Dutton. Elected public officers: felony conviction.

Existing law provides that any person receiving an allowance from a public retirement system who is charged with any of certain felonies arising out of his or her former official duties shall have that allowance suspended if he or she leaves the jurisdiction of the court, as specified.

This bill would provide that any elected public officer, who first takes the office on or after January 1, 2005, shall forfeit any retirement benefits that accrue during his or her term of office if he or she is convicted of any of those felonies arising out of his or her official duties. The bill would provide that any employee contributions made by the elected public officer during his or her term of office shall be returned, as specified. *The bill would require the officer's employer to notify the retirement system of the officer's conviction, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1235 of the Government Code, as added by Section 2 of Chapter 991 of the Statutes of 1994, is amended and renumbered to read:

1242. (a) Any person who is receiving an allowance from a public retirement system, who is charged by indictment or complaint, either in a court of this state or a federal court whose jurisdiction encompasses all or any portion of the state, with the commission of any felony involving or accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as a public officer, who has a legal obligation not to leave the jurisdiction of the court, but does leave, shall have his or her retirement allowance suspended while absent the jurisdiction of the court.

(b) The suspension shall be effective the first of the month following the month in which the court notifies the retirement system. The suspension shall be in effect until the retirement system is notified by the court. Upon notification by the court that the suspension has been lifted, the retirement system shall commence payment of the retirement allowance payable and make a onetime payment of the amount payable that had been suspended.

(c) "Public officer," for the purposes of this section, means every officer of the state, and every officer of a county, city, city and county, district, and authority, and each department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(d) The suspension does not affect the payment of any survivor's benefits by the retirement system.

(e) This section shall apply to persons who served in a public office prior to January 1, 1995, as well as to all persons who serve in a public office on or after January 1, 1995.

SEC. 2. Section 1243 is added to the Government Code, to read:

1243. (a) This section shall apply to any elected public officer who first takes the public office on or after January 1, 2005.

1 (b) If an elected public officer is convicted of any felony
2 involving accepting or giving, or offering to give, any bribe, the
3 embezzlement of public money, extortion or theft of public money,
4 perjury, or conspiracy to commit any of those crimes arising
5 directly out of his or her official duties as an elected public officer,
6 he or she shall forfeit all rights and benefits under and membership
7 in any public retirement system in which he or she is a member,
8 effective on the date of final conviction.

9 (c) If the elected public officer described in subdivision (b) was
10 a member of any public retirement system prior to his or her
11 election to the public office, he or she shall forfeit only that portion
12 of his or her rights and benefits in that or any other public
13 retirement system that accrued during or on account of his or her
14 service in the elected public office and may continue membership
15 in that public retirement system only with respect to his or her prior
16 service.

17 (d) Any employee contributions made by the elected public
18 officer to the public retirement system during his or her service in
19 the elected public office shall be returned, without interest, to the
20 public officer. The elected public officer may not receive his or her
21 employee contributions until the time of retirement or upon
22 request after permanent separation from service.

23 (e) *The public agency that employs an elected public officer*
24 *described in subdivision (b) shall notify the public retirement*
25 *system in which the officer is a member of the officer's conviction.*

